IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

FRIDAY, THE 7TH DECEMBER 2007 / 16TH AGRAHAYANA 1929

CRP.No. 1536 of 1997(H)

AGAINST THE ORDER DATED 24/07/1997 IN IA.43/97 IN SM.266/1976 of TALUK LAND BOARD, MANNARKKAD

.....

REVN. PETITIONER/APPLICANT:

JAMEELA, D/O. THOVALLAPARA MOHAMED ALIAS KUNHI BAPPU, PERIMBIDARI, ARAKURISSI,MANNARKKAD.

BY ADV. SRI.G.BALAKRISHNAN

RESPONDENTS:

---

1. TALUK LAND BOARD,MANNARKKAD.

2.TAHSILDAR, MANNARKKAD.

3.STATE OF KERALA, REPRESENTED BY THE CHIEF SECRETARY TO GOVT., SECRETARIAT, TRIVANDRUM.

4.MAMMU MOLLA HAJI, PANTHALAN, KARKIDAMKUNNU (PO), MANNARKKAD.

ADDLR5.HAMZA, S/O. MAMMU MULLA HAJI, PANTHALAN, KARKIDAMKUNNU, MANNARKKAD.

ADDL.R6.ABDUL AZEEZ, S/O. MAMMU MULLA HAJI, PANTHALAN, KARKIDAMKUNNU, MANNARKKAD.

ADDL.R7.ABOOBACKER, S/O. MAMMU MULLA HAJI, PANTHALAN, KARKIDAMKUNNU, MANNARKKAD.

ADDL. RESPONDENTS 5 TO 7 ARE IMPLEADED AS THE LEGAL HEIRS OF DECEASED R4 AS PER ORDER DATED 27.9.2006IN I.A. NO.2482 OF 2006.

BY GOVERNMENT PLEADER SMT. LATHA THANKAPPAN -R1 TO R3
SRI.O.K.MURALEEDHARAN-ADDL.R5 TO R7

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 07/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER IN C.M.P. NO.3138 OF 1997 IN C.R.P. NO.1536 OF 1997.

DISMISSED

7.12.2007 Sd/-(HARUN-UL-RASHID, JUDGE)

HARUN-UL-RASHID,J.

C.R.P.NO. 1536 OF 1997

Dated this the 7th day of December, 2007

O R D E R

This Civil Revision Petition is filed by the applicant before the Taluk Land Board, Mannarkkad against the order dated 24.7.1997 by which her claim petition filed under Section 85(8) of the Kerala Land Reforms Act, 1963 (hereinafter referred to as "the Act") was rejected.

2. The Taluk Land Board by order dated 29.3.1979 in Ceiling Case No.S.M. 266 of 1979, while fixing the area of the land to be surrendered by the 4th respondent, held that 9.92 acres of land in various survey numbers of Alanallur-II village was liable to be surrendered as excess land. The said order was confirmed by this Court in the revision petition filed by the declarant. Subsequently claim petitions under Section 85(8) of the Act were filed by some persons who were interested in the land and a modified order was passed by the Taluk Land Board on 27.10.1990 whereby an extent of 2.31 acres were reduced from the excess land ordered to be surrendered.

3. The revision petitioner - claimant contends that she has right and title over 7.56 acres of land in Survey No.78/1 of Karkidamkunnu, Alanallur-II village, bona fide purchased for valuable consideration by virtue of document No.600/86, that her predecessor-in-interest had obtained purchase certificate of the Land Tribunal, Mannarkkad and therefore, that property ought to have been exempted from the account of the declarant. The Taluk Land Board considered the claim of the applicant and passed a detailed order which is the subject matter of this revision petition.

4. The Taluk Land Board observed that the revision petitioner is a bona fide purchaser of the land included in the claim statement. But, the Taluk Land Board failed to consider the claim petition on merits and dismissed the same stating that the earlier order passed by the Taluk Land Board merged with the order passed by this Court in the earlier Civil Revision Petitions. The impugned order rejecting the claim petition for the reason that the order of the Taluk Land Board merged with the order passed by this Court is not an order validly passed. Claim petitions under Section 85(8) of the Act were filed by persons interested in the land claiming independent right in the property which according to them should

not have been included in the account of the declarant. It is the duty of the Taluk Land Board to consider such applications independently on merits and pass orders thereon Learned counsel for the revision petitioner also submits that the claimant is entitled to the protection under Section 7E of the Act.

In the result, the order under revision is set aside. The case is remanded to the Taluk Land Board, Mannarkkad for fresh consideration in accordance with law. The question urged in the claim petition and the question of claim under Section 7E of the Act shall be considered by the Taluk Land Board and appropriate orders shall be passed within a period of six months from the date of receipt of a copy of this judgment.

(HARUN-UL-RASHID, JUDGE)

sp/

HAURN-UL-RASHID, J.

C.R.P. NO.1536/1997

O R D E R

7TH DECEMBER, 2007